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JUSTICE FOR OIA AND AFMLS

TREASURY FOR FINCEN

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SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT
(INSCR), MONEY LAUNDERING AND FINANCIAL CRIMES

REF: SECSTATE 254401

11. Below are post answers to INSCR questions pertaining to money laundering and financial crimes, organized in response to the subheadings provided in State 254401.

General Questions

12. Mozambique is not a regional financial center. Money laundering is fairly common and local authorities believe that narcotics proceeds have helped finance the recent proliferation of new restaurants, shopping centers, hotels, and mosques in the country, especially in the capital. These businesses reputedly conceal profits made by those importing hashish, heroin, and synthetic drugs from South Asia (often via Tanzania) and, to a lesser extent, cocaine from South America via Brazil. Most narcotics are destined for South African and European markets; Mozambique is not a significant consumption destination and is rarely a transshipment point to the United States. Local organized crime controls narcotics trafficking operations in country, with recent immigrants from Pakistan and India playing a prominent role. Money laundering in the banking sector is also considered to be a serious problem; in recent years, prominent public figures in the Central Bank, the law enforcement community and the media have been murdered for investigating fraud and money laundering in these institutions. Despite these problems, there are no known links between Mozambique-based drug traffickers, money launderers and the financing of terrorists.

13. The financial sector is not experiencing any reported increase in crimes such as money laundering, but very few instances of laundering are formally reported or investigated. Black markets for smuggled goods and financial services are widespread, dwarfing the formal retail and banking sectors in most parts of the country, making it difficult to determine when and where laundering of narcotics money takes place. Local officials are often directly involved with drug trafficking and the laundering of profits, including the ex-chief of the Criminal Investigative Police and several of his top officers who are now awaiting trial in Inhambane province on narcotics trafficking charges. Evidence of money laundering was cited by the government as a reason for arresting these officials in 2003, but they are being prosecuted for narcotics trafficking, not money laundering.

Laws and Regulations to Prevent Money Laundering/Terrorist Financing

14. Money laundering has long been a criminal offense in Mozambique, but criminal charges and prosecutions for money laundering have been rare because the law had not been narrowly defined until enactment of the 2002 Anti-Money Laundering Act. Implementing regulations for most components of this law were only issued in September 2004, with more regulations forthcoming in 2005. The law contains specific statutes related to narcotics trafficking, but covers a wide range of laundering sources and agents. No money laundering arrests have taken place in 2004, nor have any prosecutions taken place. Since implementing regulations for the 2002 law were only recently issued, it is too early to tell how well the law will work.

15. According to the 2002 law, banks and exchange houses must immediately record and report to the Attorney General's office any cash transaction valued at 441 times the national minimum wage, which amounts to about \$18,000. In addition, exchange houses are required to turn in records of all transactions on a daily basis. All credit card transaction attempts over \$5,000 must be reported also, and can only be processed with approval from the Bank of Mozambique, i.e. the Central Bank. Banks and exchange houses are required to keep transaction records for 15 years (Article 15 of 2002 law). Financial institutions are required to report any suspicious transactions immediately to the Attorney General's office (Article 16). The Attorney General, in turn, is required to determine within 48 hours whether

to permit the transaction (Article 19). Individual bankers who cooperate with law enforcement authorities in good faith receive protection under the 2002 law (Article 21). Secrecy laws exist in Mozambique but do not apply in the case of suspected money laundering (Article 17).

16. The 1996 Money Exchange Act requires any individual carrying more than \$5,000 over the border to file a report with Customs. Taking more than \$5,000 in local currency out of the country is prohibited. The 2002 Anti-Money Laundering Act includes due diligence provisions that make both respective bankers and banks responsible if financial institutions launder money (Article 27). Money laundering controls apply to all formal non-banking financial institutions, including exchange houses, stock brokerages, casinos and insurance companies. Cash couriers must meet cross-border currency requirements, but usually fall outside the scope of anti-money laundering law because they generally work in the informal sector.

17. Mozambique has not explicitly criminalized the financing of terrorism. Its 1991 Crimes against the Security of State Act criminalizes terrorism, but it does not address financing. The 2002 law does list terrorism finance as a serious crime subject to the scope of the law, but elaborates no further (Article 4). The same law codifies Mozambique's long-standing authority to identify, freeze, seize and/or forfeit the assets of those charged with financial crimes, including terrorist finance (Articles 5 and 6). Financial institutions do not have access to the list of individuals and entities included on the UN 1267 Sanctions Committee or the USG lists; these lists are distributed only to the Central Bank, the Attorney General, and the Ministry of Foreign Affairs. Authorities in these institutions have not positively identified any of the agents on these lists operating in Mozambique, and therefore no assets have been identified, frozen, or seized.

18. Authorities acknowledge that alternative remittance systems are common in Mozambique, many of which operate in exchange houses that, on paper, are heavily regulated but in fact can easily avoid reporting requirements. There are no serious legislative, judicial, or regulatory measures being considered to address this problem. Charitable institutions must receive approval by the Ministry of Justice before receiving a charter, and are subject to investigation by the MOJ thereafter. There is no evidence of the MOJ seriously investigating any charities at this time.

19. In October 2002, the Council of Ministers ratified the 1999 International Convention for the Suppression of the Financing of Terrorism.

Offshore Financial Centers and Free Trade Zones

110. Mozambique is not considered an offshore financial center. Many local businessmen use offshore banking in nearby countries, such as Mauritius. There are no free trade zones in Mozambique.

International Cooperation

111. Mozambique is a party to the 1988 UN Drug Convention and has signed the Eastern and Southern Africa Anti-Money Laundering Group Memorandum of Understanding. The government has also signed the 2000 UN Convention against Transnational Organized Crime, but has not ratified it. The Mozambican government has enacted significant anti-drug and anti-money laundering laws as a means of enforcing these commitments. Mozambique has entered a series of formal agreements with neighboring countries to share financial information required by law enforcement bodies. Cooperation with the United States on these matters has taken place on an informal basis.

Asset Forfeiture and Seizure Legislation

113. The 2002 Anti-Money Laundering Act contains provisions authorizing seizure and forfeiture of assets, including legitimate businesses used to launder money. In such a case, the Central Bank would be responsible for the initial tracing of assets and the Attorney General would be responsible for freezing and confiscating assets. The Attorney General also has authority to auction off confiscated assets and to distribute proceeds to a range of parties. Despite this legal framework, the institutions authorized to implement the law do not have an established system for identifying and freezing narcotics-related assets, and no assets have been seized to date under the 2002 Anti-Money Laundering Act.

¶14. Mozambican law does allow for both civil and criminal forfeiture. An example of civil forfeiture would be the seizure of cash in excess of the \$5,000 limit from an individual who tried, secretly, to carry this amount across the border. The seized funds would be referred by Customs to the Central Bank. Appeals then could be made directly to the Bank. Private financial institutions are more closely regulated by criminal forfeiture acts, as listed in the 2002 law and its predecessors, but are also subject to civil suits. Financial institutions also have the right to file a civil suit against the government for loss of business in cases of unreasonable suspension, a provision that will likely discourage enforcement of the law.

¶15. Mozambique faces many other obstacles to enforcement of its money laundering and drug-trafficking laws. These include resource constraints affecting the Attorney General's office and the Criminal Investigative Police and significant corruption of the latter. Investigative prosecutors at the Attorney General's Anti-Corruption Unit often receive threats of physical violence from organized crime. In 2001, Antonio "Siba-Siba" Macuacua, Chief of Banking Supervision at the Central Bank, was murdered in the stairwell of a bank that had been under investigation. The environment for effective prosecution of criminal cases, financial or otherwise, has improved little since then.

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